

COUNTY OF KAUAI  
Minutes of Meeting  
**Open Session**

Board/Committee:	<b>LIQUOR CONTROL COMMISSION</b>	Meeting Date	<b>October 15, 2015</b>
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:00 p.m.	End of Meeting: 4:37 p.m.
Present	Chair Paul Endo, Vice Chair Josephine Sokei; Members: Members: Shirley Akita, Gerald Matsunaga, Dane Oda, Pauline Ventura Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Nicholas Courson; Charter Review Commission Chair Jan Tenbruggencate		
Excused	Jean Iida		
Absent			

SUBJECT	DISCUSSION	ACTION
<b>Call To Order</b>		Chair Endo called the meeting to order at 4:00 p.m. with 6 members present, constituting a quorum.
<b>Roll Call</b>	Director Rapozo called roll, noting 6 members were present.	
<b>Approval of the Agenda</b>	Director Rapozo noted amendments to the agenda by adding Items 9 and 10.	Ms. Akita moved to approve the agenda with amendments. Ms. Sokei seconded the motion. Motion carried 6:0.
<b>Public Hearing</b>	a) <u>PBAC, LLC</u> : Application No. 2016-22 was filed on July 27, 2015 by PBAC, LLC dba Po'ipū Beach Athletic Club for a Restaurant General License (live music with dancing) located at 2290 Po'ipū Road, Kōloa, Kauai, Hawai'i. The Commission accepted Application No. 2016-22 for publication and public hearing on August 20, 2015 and ordered to print notices of public hearing in The Garden Island newspaper on Fridays, August 28 & September 4, 2015 scheduling the public hearing on Thursday, October 15, 2015 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu'e Civic Center, Moikeha Building, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.	

	<p>Mr. Anthony Carll, General Manager, was present along with Canen Hookano of the Eric Knudsen Trust.</p> <p>Commissioner Matsunaga asked the applicant that should an inspector come to the premises and informs them that a violation is occurring, will the applicant comply to which Mr. Carll replied yes.</p> <p>Commissioner Oda commented that the hours of operation are listed from 7 a.m. to 10:00 p.m., but noted that the report also states that the applicant will offer acoustic music with occasional full band until 11:00. He asked whether a conditional permit will be required for that to which Director Rapozo replied that the license allows them to stay open until 2:00 a.m. without any additional conditions required.</p> <p>Commissioner Akita stated for clarification that the license would allow the applicant to stay open until 2:00 a.m., but the applicant is designating the hours of operation, and would not require another hearing to stay open until 11:00 p.m.</p> <p>Commissioner Oda also noted that the investigator's report states the Department has received loud music complaints from other licensed premises in the area in the past, yet also states that no license of the same class located within 500 feet of the proposed premises. He asked who are the other licensed premises being referenced. Investigator Moises explained the complaints received by the Department in the past were outside of the notification area, and not specific to this applicant.</p> <p>The public hearing for Application No. 2016-22 was closed.</p>	<p>Ms. Akita moved to approve Application No. 2016-22. Ms. Sokei seconded the motion. Motion carried 6:0.</p>
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	<p>b) <u>PROPOSED AMENDMENTS TO RULES AND REGULATIONS OF THE LIQUOR CONTROL COMMISSION OF THE COUNTY OF KAUAI:</u></p> <p><u>RULE 1.1 DEFINITIONS:</u> “Dancing” means “to move your body in a way that goes with the rhythm and style of music that is being played.”</p> <p>No public testimony was received on the proposal.</p> <p>Commissioner Akita asked to clarify Whether Maui or Hawaii County had added an addendum to the rule to which Director Rapozo explained the City and County of Honolulu needed to include an addendum to their rules to address exotic dancers.</p> <p>Commissioner Oda asked whether they would be able to amend the rules to designate a specific area for dancing to which Director Rapozo stated there is already something currently in the rules that states dancing needs to occur within a designated 150 square foot dance floor. Along with that, it states that booths in restaurants cannot be blocked.</p> <p>Commissioner Akita stated that it is her understanding that the rules were primarily created for the safety of the patrons to which Director Rapozo replied that the rules are all essentially to address public health and safety issues. The legislature mandated the Liquor Commissions to define dancing, which is why this is now being done; it had never really been a problem.</p> <p>Director Rapozo reminded the Commission that this is just the public hearing, and decision making will take place at the next Commission meeting.</p> <p>The public hearing for the proposed amendments to the rules and regulations was closed.</p>	
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<b>Violation Hearings</b>	<p><u>KAUAI SPORTS BAR &amp; ASIAN CUISINE</u>: Violation of Rule 7.9(d) Manager Registration.</p> <p>Director Rapozo noted that pursuant to Rule 3.11 the licensee has waived their right to a violation hearing, and has paid the fine of \$50.</p>	<p>Ms. Ventura moved to accept the waiver of hearing, and fine of \$50. Ms. Sokei seconded the motion. Motion carried 6:0.</p>
<b>Minutes of the Meeting</b>	<u>Minutes of the Meeting of September 17, 2015</u>	<p>Ms. Sokei moved to approve the minutes. Mr. Oda seconded the motion. Motion carried 6:0.</p>
1.	<p><u>DIRECTOR'S REPORT:</u></p> <p>a) <u>INVESTIGATORS' REPORTS</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ul style="list-style-type: none"> <li>(1) Delicato Family Vineyards</li> <li>(2) Jackson Family Enterprises</li> <li>(3) Avid Marketing Group</li> <li>(4) Sweepstakes Consulting, LLC</li> <li>(5) Disturbance Reports from Kalapakī Joe’s Kukui Grove, Port Allen Sunset Grill &amp; Bar, and Kauai Sports Bar &amp; Asian Cuisine</li> <li>(6) Putter’s Pub, Re: Surrender of Liquor License No. 5G-016</li> </ul> <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <ul style="list-style-type: none"> <li>(1) Delicato Family Vineyards</li> <li>(2) Jackson Family Enterprises</li> <li>(3) Avid Marketing Group</li> <li>(4) All Wholesale Licensees, Re: New Liquor License for Longs (Poipu); Surrender of License Putter’s Pub</li> </ul> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment.</p>	

	<p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <ul style="list-style-type: none"> <li>(1) DOLPHIN RESTAURANT, FISH MARKET AND SUSHI LOUNGE</li> <li>(2) FOODLAND (Princeville)</li> <li>(3) JOSSELIN'S TAPAS BAR &amp; GRILL</li> <li>(4) KAUAI ISLAND BREWING COMPANY</li> <li>(5) KILOHANA</li> <li>(6) MAKAI GOLF CLUB</li> <li>(7) MERRIMAN'S</li> <li>(8) THE WINE SHOP</li> <li>(9) INTERCRUISES SHORESIDE &amp; PORT SERVICES</li> <li>(10) WALDRON NORTON LILLY INTERNATIONAL</li> <li>(11) DESTINATION EVENTS HAWAII, LLC</li> <li>(12) HANAIEI BAY ROTARY CLUB</li> <li>(13) KAUAI CHAMBER OF COMMERCE</li> </ul> <p>f) <u>INFORMATIONAL MATTERS:</u></p>	<p>Ms. Sokei moved to receive Items 1 (a) through (f). Mr. Oda seconded the motion. Motion carried 6:0.</p>
2.	<p><u>NEW LIQUOR LICENSE:</u></p> <p><u>THE POOL BAR:</u> Application No. 2016-66 was filed on October 2, 2015 by AOA Hanalei Bay Resort dba The Pool Bar for a Dispenser General (live entertainment and dancing) license located at the Hanalei Bay Resort, 5380 Honoiki Road, Princeville, Kauai, Hawaii. Deposited \$450.</p>	<p>Ms. Akita moved for publication and public hearing of Application No. 2016-66. Mr. Oda seconded the motion. Motion carried 6:0.</p>
3.	<p><u>VIOLATION REPORTS:</u></p> <p><u>KAUAI SPORTS BAR &amp; ASIAN CUISINE:</u> Violation of Rule 7.13 Fight and Disturbance Reports.</p>	<p>Ms. Akita moved to call licensee for violation hearing. Mr. Oda seconded the motion. Motion carried 6:0.</p>

4. WAIVER OF RULE 2.5(b)(3):

MNS, LTD. dba ABC STORES: Request for permanent waiver of requirement to submit personal history and affidavits, criminal history and fingerprinting for remaining officers and directors.

Mr. Roy Toguchi, Property Manager for MNS, Ltd. was present.

Mr. Toguchi stated they currently have a total of fifteen officers and directors; two of the fifteen reside out of state, and it has been challenging to have all of the officers and directors submit the necessary paperwork, and fingerprinting. They are looking to streamline the process, and cut back on the amount of paper necessary.

Chair Endo stated that if they permanently waive this requirement, should the officers change, the Commission would not be able to run background checks on any new officers. Mr. Toguchi clarified that they are only requesting the permanent waiver for the two specific officers, Paul Kosasa and Riki Morimoto, who are designated to oversee the company's license and operations; they will continue to submit background checks for any other new officers coming on board.

Commissioner Akita pointed out that ABC Stores has been around for a quite a while, and questioned whether this is the first time they have asked for waivers, and whether they have adhered to submitting the required paperwork in the past to which Mr. Toguchi replied yes. Mr. Toguchi further noted that in the past MNS has had five to seven officers, but that number has increased to fifteen.

Commissioner Matsunaga asked whether the licensee understood Section 281-53.5 of the Hawaii Revised Statutes requiring a criminal record check, and whether the Commission is being asked to waive a statutory

	<p>requirement to which Mr. Toguchi replied yes. Commissioner Akita asked whether the Commission had the jurisdiction to waive that requirement to which Director Rapozo stated there is a State law that covers the Commission's ability to request the criminal history check.</p> <p>Director Rapozo pointed out that Kauai does not require fingerprinting, and the process here is much simpler than the other islands. All the applicant must supply is a one-page affidavit that is notarized and is sent to the Hawaii Criminal Justice Data Center. Commissioner Matsunaga asked to clarify that the affidavit would state whether or not the individual has a criminal history, and would be in compliance with Section 281-53.5 to which Director Rapozo replied yes.</p> <p>Commissioner Ventura asked whether it was only a one time submission, or does it have to be done annually. Mr. Toguchi stated it only needs to be done if there are changes to the officers.</p> <p>Commissioner Oda pointed out there must be a reason or justification for the creation of this Statute. Director Rapozo explained the main concern is that anyone with a felony conviction will be disqualified from holding a liquor license. Commissioner Oda stated that it has been noted that Kauai's process is much simpler than other counties, and he would like to continue to ensure that these background checks have been done to avoid any future problems.</p> <p>Commissioner Matsunaga asked whether the licensee understood that the only requirement from the Kauai Liquor Commission is the affidavit, and whether the licensee had any problem with that to which Mr. Toguchi replied no.</p> <p>Chair Endo commented that with the simplicity of Kauai County's process, which involves only a single-page affidavit be submitted, he does not feel</p>	
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	<p>that is too burdensome. Commissioner Matsunaga agreed, and stated he felt there is no need for this waiver.</p> <p>The Commission expressed concerns that waiving this rule may set a precedence in the future. Director Rapozo pointed out that there are licensees who have upwards of 30 officers, directors and stockholders, and they comply with the rule.</p>	Mr. Toguchi withdrew his request for waiver of Rule 2.5(b)(3).
5.	<p><u>CHANGE OF FIRM NAME:</u></p> <p><u>NEW ICHIBAN SUSHI &amp; BAR:</u> Change of firm name on Restaurant General License No. 2G-063 from "New Ichiban Sushi &amp; Bar" to "Kauai Ramen".</p>	Ms. Akita moved to approve the change of firm name. Mr. Oda seconded the motion. Motion carried 6:0.
6.	<p><u>REQUEST FOR PERMANENT INCREASE OF PREMISES:</u></p> <p><u>THE DOLPHIN FISH MARKET &amp; SUSHI LOUNGE:</u> Permanent increase of premises to include approximately 240 square feet of lanai space, per diagram and amendment to lease submitted.</p>	Ms. Akita moved to approve the permanent increase of premises. Ms. Sokei seconded the motion. Motion carried 6:0.
7.	<p><u>CHANGE OF FIRM NAME AND LICENSE IN ABEYANCE:</u></p> <p><u>POIPU TROPICAL BURGERS:</u> Change of firm name on Restaurant General license 2G-023 from "Poipu Tropical Burgers" to "Pa'ina Pono Café" and Request to hold license in abeyance pending relocation.</p> <p>Director Rapozo stated the licensee will be moving to 'Ele'ele Shopping Center and will be coming in for a Change of Location.</p>	Ms. Akita moved to approve the change in firm name and license in abeyance. Ms. Sokei seconded the motion. Motion carried 6:0.
8.	<p><u>REQUEST FROM CHARTER REVIEW COMMISSION FOR INPUT ON PROPOSED CHARTER AMENDMENTS</u></p>	



	<p>Charter Review Commission Chair Jan Tenbruggencate was present, and provided a background on the purpose of the proposed amendments. They are asking all the chartered commissions to offer input on any changes they would like to suggest be put on the ballot for the next General Election.</p> <p>Commissioner Akita asked what kinds of things would be included in the charter that pertains to the Liquor Commission. Mr. Tenbruggencate explained the Charter is the basic structural document that tells how the County government will be run, providing rules and regulations.</p> <p>Deputy County Attorney Courson stated for example that under Maui County’s charter, they Liquor Commission has a separate adjudication commission. The Charter outlines the very basic structure of how the Commission functions.</p> <p>Mr. Tenbruggencate requested that any suggested changes be submitted to the Charter Review Commission by the end of the year.</p>	
9.	<p><u>NEW LIQUOR LICENSE:</u></p> <p>a) <u>KAUAI LAGOONS</u>: Application No. 2016-68 was filed on October 12, 2015 by Timbers Kauai Golf dba Kauai Lagoons for a Dispenser Beer &amp; Wine (live music with dancing) license located at Kauai Lagoons Golf Course, 3351 Hoolaulea Way, Līhu‘e, Kauai, Hawaii. Deposited \$450.</p>	<p>Ms. Akita moved for publication and public hearing of Application No. 2016-68. Ms. Sokei seconded the motion. Motion carried 6:0.</p>
	<p>b) <u>HANAI KAUAI</u>: Application No. 2016-70 was filed on October 13, 2015 by Hanai Kauai Inc. dba Hanai Kauai for a Restaurant General license located at 4-1543 Kūhi‘ō Highway, Kapa‘a, Kauai, Hawaii. Deposited \$450.</p>	<p>Ms. Akita moved for publication and public hearing of Application No. 2016-70. Mr. Oda seconded the motion. Motion carried 6:0.</p>
	<p>c) <u>PIETRO’S PIZZA</u>: Application No. 2016-71 was filed on October 13, 2015 by Pietro’s Hawaii LLC dba Pietro’s Pizza for a Restaurant General (live entertainment and dancing) license located at 3501 Rice</p>	<p>Ms. Akita moved for publication and public hearing of Application No. 2016-71. Ms. Sokei</p>

	Street, Līhu‘e, Kauai, Hawaii.	seconded the motion. Motion carried 6:0
<b>10.</b>	<u>TEMPORARY LIQUOR LICENSE:</u>  <u>KAUAI LAGOONS:</u> Application No. 2016-69 was filed on October 12, 2015 by Timbers Kauai Golf dba Kauai Lagoons for a Temporary license to operate Dispenser General License No. 5G-016 located at 3351 Hoolaulea Way, Līhu‘e, Kauai, Hawaii. Deposited \$60.	Ms. Sokei moved to approve the temporary liquor license. Ms. Akita seconded the motion. Motion carried 6:0.
<b>Announcements</b>	Next Scheduled Meeting: Thursday, November 5, 2015 – 4:00 pm, Mo‘ikeha Building, Meeting Room #3.	
<b>Adjournment</b>		Chair Endo adjourned the meeting at 4:37 p.m.

Submitted by: \_\_\_\_\_  
Cherisse Zaima, Private Secretary

Reviewed and Approved by: \_\_\_\_\_  
Paul Endo, Chair

- ( ) Approved as is.  
( ) Approved with amendments. See minutes of \_\_\_\_\_ meeting.